IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

OP.No. 4944 of 2003(L)

PETITIONER:

SRI. R.K UNNIKRISHNAN NAIR,
MANAGER, PAVANDOOR HIGHER SECONDARY SCHOOL,
PAVANDOOR P.O., KOZHIKODE DISTRICT,
PIN - 673 613.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED
BY UNDER SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (SC) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR, HIGHER SECONDARY
EDUCATION, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM-695 001.

3. THE DISTRICT EDUCATIONAL OFFICER,
KOZHIKODE.

4. SHRI.M. HRISHIKESAN, HIGH SCHOOL
ASSISTANT (MALAYALAM), PAVANDOOR HIGHER
SECONDARY SCHOOL, PAVANDOOR P.O.,
KOZHIKODE DISTRICT, PIN-673 613.

BY ADV. SRI.KRB.KAIMAL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/11/2006ALONG WITH WPC NO. 10955 OF 2006 WPC NO. NO. 28351 OF 2006 WPC NO. 24651 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.8644/03 IN O.P.NO.4944/03

DISMISSED.

28-11-06 **SD/-, K.M.JOSEPH, JUDGE**

APPENDIX INO.P.NO.4944/03

PETITIONER'S EXHIBITS

EXT.P1	**PHOTOCOPY OF PROCEEDINGS DATED 4-4-02 (A) OF R2.**
EXT.P2	**PHOTOCOPY OF THE PROCEEDINGS DATED 4-4-02 (B) OF R2.**
EXT.P3	**PHOTOCOPY OF GOVT. ORDER DATED 11-6-99 VIDE NO.G.O.MS 132/99/G.EDN. OF THE SECRETARY TO GOVT.**
EXT.P4	**PHOTOCOPY OF THE STATEMENT SHOWING TEACHING AND NON TEACHING STAFF WORKING IN THE HIGHER SECONDARY SECTION OF PAVANDOOR HIGHER SECONDARY SCHOOL**
EXT.P5	**PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY R4 BEFORE R2**
EXT.P6	**PHOTOCOPY OF PROCEEDINGS OF THE INTERVIEW BOARD, DTD. 16-08-01 REFERRED TO IN THE ORIGINAL PETITION.**
EXT.P7	**PHOTOCOPY OF THE JUDGMENT IN O.P.NO.29612/01**
EXT.P8	**PHOTOCOPY OF THE ORDER ISSUED BY R1 TO THE PETITIONER.**
EXT.P9	**PHOTOCOPY OF PROCEEDINGS OF THE INTERVIEW BOARD HELD ON 31-08-00.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

O.P.No.4944/03 & W.P.C.NOs.24651/03
10955/06 & 28351/06

Dated this the 28th day of November,2006.

JUDGMENT

In W.P.(C)No.28351/06 filed by one Sri.M.Hrishikesan, by Ext.P1 Government directed the manager to appoint him as Higher Secondary School Teacher in the Pavandoor HSS in the vacancy that existed in 1999 with effect from 1999. Ext.P2 is an order passed by the Government which reads as follows:

> "In the circumstances in partial modification to the Government Order read as first paper above Government order that Shri.Hrishikesan, High School Assistant (Mal.) will be considered for the next arising vacancy of Higher Secondary School Teacher (Mal.) in the school. Government also order to approve the appointment of the three teachers ie. Smt.E.Valsala, Smt.M.I.Seena and Smt.K.Resitha in the school which is long pending on condition that the same will be subject to the final orders of the Hon'ble High Court in W.P.(C)No.24651/03 filed by Shri.Hrishikesan. The Director of Higher Secondary Education will take necessary action in the matter"

2. One of the complaints of Shri.Hrishikesan is that the order is bad for violation of principles of natural justice. The right given to ShriHrishikesan vide Ext.P1 is modified vide Ext.P2 without hearing him.

3. W.P.(C)No.24651/03 is filed by Shri.M.Hrishiksan seeking implementation of Ext.P1. The manager has filed W.P.(C) No.4944/03 challenging Ext.P8 order which is produced as Ext.P1 in W.P.(C)No.28357/06.

4. W.P.(C)No.10955/06 is filed by Smt.M.I.Seena. Her complaint is that though she was appointed as HSST (English), she was denied salary of either HSST or HSA. This court has also passed an interim order directing payment of salary as H.S.A. provisionally.

5. I heard learned learned counsel for the parties and the learned Government Pleader also.

6. It is not in dispute that Shri.Hrishikesan was not heard before Ext.P2 order was passed. In such circumstances Ext.P2 in W.P.(C)No.28351/06 cannot be sustained for the sole reason that Ext.P1 order which was in favour of Shri.Hrishikesan came to be modified by Ext.P2 without hearing him. Therefore, Ext.P2 in W.P. (C)No.28351/06 is quashed and the first respondent is directed to consider the matter afresh after hearing Shri.M.Hrishikesan, the manager, the petitioner in W.P.(C)No.10955/06 and other teachers mentioned in Ext.P2 in W.P.(C)No.28351/06. Fresh

orders shall be passed by the first respondent in accordance with law within a period of two months from the date of receipt of a copy of this judgment.

7. I make it clear that as far as the challenge raised by the manager in O.P.No.4944/03 to Ext.P8 order therein corresponding to Ext.P1 in W.P.(C)No.28351/06, I leave open the same. Status quo as on today will continue till a decision is taken. Interim order passed in W.P.(C)No.10955/06 directing payment of salary will continue till a final decision is taken. Till a final decision is taken , the manager shall not make any appointment to the post of H.S.S.T.

K.M.JOSEPH.
JUDGE.

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